



STATE OF NEW YORK

**UNEMPLOYMENT INSURANCE APPEAL BOARD**

PO Box 15126

Albany NY 12212-5126

**DECISION OF THE BOARD**

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Mailed and Filed: OCTOBER 19, 2022

IN THE MATTER OF:

Appeal Board No. 624651

PRESENT: RANDALL T. DOUGLAS, MEMBER

The Department of Labor issued the initial determinations disqualifying the claimant from receiving benefits, effective March 22, 2022, on the basis that the claimant voluntarily separated from employment without good cause and, in the alternative, disqualifying the claimant from receiving benefits, effective

January 20, 2022, on the basis that the claimant lost employment through misconduct in connection with that employment and holding that the wages paid to the claimant by TION prior to January 20, 2022 cannot be used toward the establishment of a claim for benefits. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which testimony was taken. There was an appearance by the claimant. By decision filed June 24, 2022 (), the Administrative Law Judge sustained the initial determination of misconduct.

The claimant appealed the Judge's decision to the Appeal Board. The Board considered the arguments contained in the written statement submitted on behalf of the employer.

Our review of the record reveals that the case should be remanded to hold a hearing. The employer's witness notified the hearing section that she was not called during the hearing. The Board has decided to provide the employer with another opportunity to appear and to present evidence concerning the circumstances of how the claimant's employment ended. Specifically, the employer should provide testimony and evidence regarding the reasons for the

denial of the claimant's applications for medical and religious exemptions, and whether it had granted requests for others, and, if so, why. The claimant should be questioned regarding the reasons for her medical and religious exemption requests. The employer should produce the claimant's applications and the documents should be entered into evidence.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the issues of misconduct and voluntary separation from employment without good cause, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, on the issues of misconduct and voluntary quit without good cause, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

RANDALL T. DOUGLAS, MEMBER